

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF:)

CITY OF VINTON,)
Public Employer,)

and)

CHAUFFEURS, TEAMSTERS & HELPERS,)
LOCAL UNION NO. 238,)
Certified Employee)
Organization/Petitioner.)

CASE NO. 5361

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PUBLIC EMPLOYMENT
RELATIONS BOARD

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CITY OF VINTON,)
Public Employer/Petitioner,)

and)

CHAUFFEURS, TEAMSTERS & HELPERS,)
LOCAL UNION NO. 238,)
Certified Employee)
Organization.)

CASE NO. 5377

PROPOSED DECISION AND ORDER

Chauffeurs, Teamsters & Helpers, Local 238, filed a petition for clarification of bargaining unit with the Public Employment Relations Board (PERB or Board) pursuant to PERB rule 621-4.7[621 IAC 4.7(20)] (Case No. 5361), seeking to determine whether reserve police officers are included within the bargaining unit of employees of the City of Vinton which Local 238 represents for purposes of collective bargaining pursuant to the Public Employment Relations Act (the Act), Iowa Code chapter 20.

The City of Vinton subsequently filed a petition for amendment of bargaining unit pursuant to PERB rule 621-4.6 (Case No. 5377), seeking the removal of the job classification of sergeant from the

same bargaining unit due to their alleged status as supervisory employees within the meaning of section 20.4(2).¹

Upon the City's motion the cases were consolidated for hearing which was conducted before me in Vinton, Iowa, on November 9, 1995. At hearing both parties were represented by counsel, Neil A. Barrick for Local 238 and Iris E. Muchmore for the City. At hearing the parties stipulated to facts supporting their agreed resolution of Local 238's clarification of unit petition, discussed below, and litigated only the City's amendment of unit petition. Both filed post-hearing briefs.

FINDINGS OF FACT

The City, the county seat of Benton County, is a public employer within the meaning of section 20.3(11). Local 238 is an employee organization within the meaning of section 20.3(4).

In 1983 Local 238 was certified by the Board as the exclusive bargaining representative for the City's employees in the affected bargaining unit. At that time, the department was composed of the ranks of chief, captain, lieutenant and officer, the officers being the only employees included within the unit.

Apparently the department subsequently created the rank of sergeant and began to employ part-time officers, for in 1986 the parties stipulated to and the Board approved an amended unit which included full and part-time officers as well as sergeants.²

¹This and all subsequent statutory citations are to the Code of Iowa (1995).

²The chief, captains and lieutenants continued to be specifically excluded from the unit. See 86 PERB 3211.

Sometime subsequent to the 1986 amendment, the department eliminated the rank of lieutenant.

In March, 1991, Jeff Tilson was appointed Chief of Police and assumed command of the department, which then consisted of one captain, one sergeant and a number of patrol officers. Although it is not clear whether part-time patrol officers or reserve officers within the meaning of Iowa Code chapter 80D were employed when Tilson assumed command, it is apparent that at some point the department ceased its employment of part-time officers and began its utilization of reserve officers. Subsequent to Tilson's arrival the department eliminated the rank of captain, and in 1993 a patrol officer was promoted to the rank of sergeant.

As of the date of hearing, the department was staffed by the chief, two sergeants, four full-time patrol officers and three reserve officers. At hearing, the parties stipulated that reserve officers have never been treated as having been included, and in fact are not included within the existing bargaining unit. The existing unit thus is comprised of six employees--two sergeants and four patrol officers.

The entire police department is physically located in two rooms at the city hall. It utilizes the County's jail and vehicle impound facility rather than maintaining its own. The department is typically not heavily staffed. The chief's regular working hours are 9:00 a.m. to 5:00 p.m., Monday through Friday. The sergeants, patrol officers and reserve officers all operate as part of a rotating work schedule which most often consists of four

partially-overlapping one-person shifts each day.³ At least one shift officer is on duty 24 hours a day, and the only officer on duty at any given time may well be a patrol or reserve officer.

The shift officers operate within the parameters of previously-issued standing orders and known, routinized procedures. Officers have preset duties and responsibilities and almost always work independently of any direct supervision. During the relatively few hours where shifts overlap and two officers are on duty, the officers work separately. Each officer's primary responsibility during a work shift is to patrol the entire city and perform the general law enforcement duties such as the intervention in or investigation of reported offenses or incidents, the apprehension of suspects and the processing of those arrested, including the preparation of required paperwork.

Such general law enforcement duties are the only regular function of the patrol and reserve officers. The two sergeants are part of the same regular shift rotation, and perform duties which are indistinguishable from those of the patrol and reserve officers, as well as certain additional duties. The work schedule is structured so that, absent the need for alteration due to unusual or unforeseen circumstances, when the sergeants are working one is assigned to a "day" shift and the other to a "night" shift.

³For example, a typical weekday schedule appears to consist of consecutive one-person shifts of 7:00 a.m. - 3:00 p.m.; 3:00 p.m. - 11:00 p.m. (which the parties refer to as the "day shifts"), and 11:00 p.m. - 7:00 a.m., over which is superimposed an eight or ten hour shift commencing at 6:00 or 7:00 p.m. and extending to 3:00 or 4:00 a.m. (the "night shifts").

Consequently the sergeants seldom, if ever, are on duty simultaneously.

The chief does not normally fill one of the scheduled patrol shifts himself, but spends approximately 20 percent of his working hours performing patrol duties, devoting the remainder of his time to administrative functions.

The chief has issued a number of general operational orders. One such order requires the chief's immediate notification upon the occurrence of all major crimes or significant incidents, regardless of the time of day.⁴ Another general order, issued following the elimination of the rank of captain and the appointment of a second sergeant, establishes a "uniform procedure for contacting supervisors" in situations not necessarily requiring the chief's notification. That order labels the sergeants as "first line supervisor[s]" and the chief as the "second line supervisor" and specifies who officers should contact in various situations once they "have determined that a supervisor needs to be contacted." Generally, the order calls for one of the sergeants to be contacted by the officers initially, with resort to the chief under only limited circumstances.⁵

⁴Notification is required for virtually all felonies as well as for traffic fatalities, missing children, bomb threats, hazardous substance spills requiring any evacuation and incidents directly affecting the department, such as accidents involving a department vehicle, the theft or disappearance of any property of the department or the arrest of any departmental employee. See City Ex. 12.

⁵See City Ex. 2.

Charles Campbell and Michael Severtsgaard are the department's sergeants. Both are very senior, experienced officers, Campbell having been employed by the department since 197 and Severtsgaard since 1983. Campbell was the only sergeant when Tilson became chief. Severtsgaard was promoted to sergeant by Tilson in March, 1993. By that time Severtsgaard had already served at least a year as union steward for the unit, and he continues to occupy that position, as well as one as a member of the unit's negotiating committee. The chief does not directly participate in the City's collective bargaining activities.

The sergeants, in addition to the patrol duties shouldered by every shift officer, have been assigned certain administrative duties. The sergeant working "days" is responsible for regularly reviewing the paperwork generated by the day shift officers, while the "night" sergeant does the same for night shifts. Both typically devote a few minutes per day at the start of their shift to check that other officers' log sheets, complaint cards, incident and arrest reports are completely and correctly filled in. If incomplete or incorrect paperwork has been submitted by an officer the sergeant leaves the materials, with a note pointing out the problem, for the officer's later attention.

Both sergeants, as part of their additional administrative duties, serve as the first-line evaluators of patrol officers and reservists. Each employee has been evaluated by a sergeant at least annually since the department's evaluation procedure was implemented in 1992. The sergeants utilize a preprinted form on

which the employee's performance on a number of specified criteria are rated on scale from one to four. Sergeants are not required to make, nor do they make any recommendations concerning continued employment, promotion, increases in pay or any other terms of employment of the employee under evaluation. Following preparation of the evaluation the sergeant meets with the employee, reviews the evaluation and secures the employee's signature on it before passing it on to the chief for his review.

Sergeant Campbell has, since at least 1987, prepared the work schedule for shift officers. The initial preparation of the schedule is routine and requires no use of independent judgment, since established rules and preset rotations are in place which Campbell simply follows, typically preparing and posting a full year's schedule in advance.⁶ Campbell is also often involved in the alteration of the posted schedule to accommodate vacations, although this function, too, is essentially routine and clerical.⁷

⁶Officers are rotated between "days" and "nights" every six months. During each six-month period an individual officer works one pre-established "day" or "night" shift for seven days, then enjoys a number of days off before working seven days on the other pre-established "day" or "night" shift.

⁷When officers wish to schedule vacation they mark the relevant dates on a separately-posted vacation calendar, most often calling those days to Campbell's attention. Campbell adjusts the already-posted shift schedules by crossing the vacationing officer's identifying number and scheduled shift off the schedule, creating a place where another officer can sign up for the vacated shift. There is no evidence that either sergeant is authorized to or has ever required an officer to fill an unclaimed shift vacancy. Instead, it appears that the chief becomes involved should such a situation arise.

Unanticipated absences of scheduled officers due to illness or other unforeseen circumstances are addressed in a number of different ways on a case-by-case basis by whoever is then on duty.

Due to the small size of the department and the need for a 24-hour duty schedule, a single officer is frequently the only one on duty. Officers, regardless of rank, work independently, making the on-site decisions required by the particular situation including decisions whether evidence is sufficient to warrant the arrest of a suspected offender. Some functions require no real decision-making at all since they are controlled by established departmental policy. For instance, policy requires that certain paperwork relating to an arrest be completed before the arresting officer goes off duty. Consequently, an arrest occurring at or near the end of an officer's shift necessarily requires the officer to stay on, in overtime status, until the required paperwork is completed. No overtime authorization from a higher rank is required.

The department's standard practice is that the officer who was initially involved with a matter sees it through to its conclusion. Consequently, if an officer at the end of a scheduled shift is actively engaged in an investigation which he or she believes should continue without interruption, the officer continues the investigation, incurring overtime. The sergeants, if either are on duty, may or may not be advised of the continuing investigation, and may or may not be asked to "approve" the overtime by the officer. Although the sergeants do not perceive departmental policy as requiring their approval in such situations, when they

have been asked they have routinely "approved" the continuation proposed by the requesting officer, relying upon the officer's judgment.

The sergeants are not regularly required to direct the work of the other officers, and do so only occasionally, in unusual situations. For instance, in those situations where a sergeant and a lower-ranking officer happen to be on duty at the same time and more than one situation arises which requires police involvement, the sergeant decides which officer will respond to which situation. The record also reflects that the chief once designated Severtsgaard as the officer "in charge" during a period of time when both he and Campbell were out of town, requiring Severtsgaard to prepare payroll records or reports normally prepared by the chief.

All officers recognize that others may have greater experience in certain situations, and do not appear to hesitate to seek the advice and counsel of other officers, regardless of the other officer's rank or whether they are on duty or not at the time. The sergeants, as the most experienced shift officers, are regularly, if not frequently, contacted by other officers who present a fact pattern and seek the sergeant's view on whether a proposed course of action is appropriate. The sergeants too at times avail themselves of the opportunity to run situations by other officers and to seek their opinions on how to best proceed. The sergeants view these officer-to-officer contacts as little more than the sharing of past experiences and advice among coworkers, and there

is no evidence that such contacts result in the issuance of specific orders or directions to the inquiring officer, as opposed to the mere making of suggestions or the sharing of advice and opinions.

The sergeants have no direct authority to hire other departmental employees, nor do they participate in the interviewing of prospective employees. Since Tilson's appointment as chief the only employees hired have been reserve officers, all of whom, Tilson believes, were required to accompany both sergeants during a duty shift in order to allow the sergeants to evaluate the applicants' potential. The sergeants make no formal recommendations concerning hiring and the chief makes the ultimate hiring decision. According to Tilson, he discusses the applicant with both sergeants following the ride-along experience, and has hired only those applicants who received favorable comments from the sergeants. Severtsgaard, however, indicated that he had no pre-hire involvement whatsoever with the last two reservists hired.

The sergeants have no authority to discharge other departmental employees. Severtsgaard did, however, on one occasion recommend the discharge of a patrol officer. While off duty Severtsgaard observed an on-duty officer respond to a situation in a manner he believed to be inappropriate. Pursuant to departmental policy requiring all officers to report perceived violations of law or policy, he reported his observations to the chief, who directed him to investigate the matter and prepare a written report and recommendation. In his report Severtsgaard included a

recommendation that the officer be terminated. Following receipt of the report the chief interviewed both the officer and Severtsgaard and, a day or two following his receipt of the sergeant's report, terminated the officer in question. A few days later, however, without any further involvement by the sergeant, the chief reinstated the officer due to what he perceived as "disputable discrepancies" in the accounts of what had taken place.

The sergeants possess no authority to suspend or demote other employees. The sergeants do, however, possess the independent authority to issue both verbal and written reprimands, without the chief's prior approval. Campbell acknowledges his authority in this regard, but has never issued a written reprimand to another officer. He has on occasion reprimanded fellow officers verbally, most often in situations where he believed officer safety was jeopardized by an officer's conduct, and has at times (but not always) reported his action to the chief. Severtsgaard was of the belief that his disciplinary authority was limited to the issuance of verbal reprimands and corrective suggestions.

Although neither sergeant has issued a written reprimand, the chief indicated that if such action were taken by a sergeant, he would independently review the reprimand and could modify the sergeant's action. While the chief has on occasion conferred with or advised the sergeants concerning anticipated disciplinary actions, Tilson alone possesses the authority to demote, suspend or discharge departmental employees.

Iowa Code section 20.4 provides, in relevant part:

20.4 Exclusions.

The following public employees shall be excluded from the provisions of this chapter:

2. Representatives of a public employer, including the administrative officer, director or chief executive officer of a public employer or major division thereof as well as the officer's or director's deputy, first assistant, and any supervisory employees.

"Supervisory employee" means any individual having authority in the interest of the public employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other public employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. . . .

CONCLUSIONS OF LAW

Case No. 5361

The stipulated record establishes that the reserve officers who are the subject of the clarification proceeding do not constitute a part of the existing bargaining unit. Because the existing unit description may be viewed as ambiguous as to the status of these employees, clarification of the description to specify their exclusion from the unit is appropriate. See, e.g., Eastern Iowa Community College, 82 PERB 2110.

Case No. 5377

The City maintains that the bargaining unit must be amended to exclude the sergeants because they are supervisory employees within the meaning of section 20.4(2) and are excluded from the Act's coverage, rendering them ineligible for inclusion in any bargaining unit. Local 236 argues that the sergeants are properly viewed as

leadworkers rather than true supervisors, and should thus remain within the existing unit.

The "supervisory" exclusion of section 20.4(2) has two components. First, the individual must have authority to accomplish one of the specified functions. Second, the exercise of such authority must require the use of independent judgment and be of more than a routine or clerical nature. It must be authority exercised in the interest of the public employer. City of Davenport v. PERB, 264 N.W.2d 307, 314 (Iowa 1978).

The statutory exclusion requires evidence of actual supervisory authority, visibly translated into tangible examples. City of Davenport, supra, 264 N.W.2d at 313. Some kinship with management, "some empathic relationship between employer and employee," must exist before the latter becomes a supervisor for the former. NLRB v. Security Guard Service, Inc., 384 F.2d 143, 149 (5th Cir. 1967). For true supervisory status to exist, the responsibilities of the position must substantially identify the employee with management. City of Davenport, supra, 264 N.W.2d at 314.

The directing and assigning of work by a skilled employee to less skilled employees does not involve the use of independent judgment when it is incidental to the application of the skilled employee's technical or professional know-how. Id. The term "leadworker" is frequently applied to individuals who direct the work of a small group of employees, while at the same time performing the same work as those employees. While such employees'

duties may encompass some responsibility beyond that of the rank-and-file employee, they are not supervisors within the meaning of section 20.4(2) and are eligible for bargaining unit membership. City of Ames, 75 PERB 15.

It is the employee's regular functions and responsibilities which are determinative. Temporary or occasional service as a supervisory does not disqualify one for unit inclusion. City of Davenport, supra, 264 N.W.2d at 315.

The Act is written in broad terms so as to permit a large number of public employees to be eligible for coverage under its provisions. Accordingly, the section 20.4 exclusions must be read narrowly so as to promote the Act's broad application. Iowa Association of School Boards v. PERB, 400 N.W.2d 571, 576 (Iowa 1987).

The City advances City of Carroll, 89 H.O. 3988, in which a PERB administrative law judge found police sergeants in that department to be supervisory employees, as being sufficiently similar to the facts of this case to be dispositive. I do not view Carroll in such a fashion. Prior case decisions are seldom if ever determinative of supervisory issues, because the presence or absence of supervisory status is ordinary a fact question, involving a case-by-case approach "in which the agency gives practical application of the statute to the infinite and complex

gradations of authority which may exist in employment." City of Davenport, supra, 264 N.W.2d at 313.⁸

There is no claim or even suggestion that the Vinton sergeants are supervisory employees based upon the authority to transfer, suspend, layoff, recall or promote other public employees. Consequently, if supervisory status is to be found, it must be based upon one or more of the other section 20.4(2) functions.

Even if the somewhat-conflicting record is viewed in a light most favorable to the City's claim, supervisory status cannot be found on the basis of hiring authority or an ability to effectively recommend hiring. The sergeants clearly do not possess the independent authority to hire, and although the chief testified that no employee has been hired who did not receive the support of both sergeants, it is clear that the chief makes the hiring decisions independently, although considering any comments from the sergeants. Under such circumstances, I cannot conclude that the sergeants' involvement in the hiring process rises to the level of "effective recommendation," which the Board has long defined as "one which, under normal policy and circumstances, is made at the chief executive level or below, and is adopted by higher authority

⁸Additionally, even assuming that the correct result was reached by the ALJ in Carroll, the decision seems to have been based, at least in part, upon the application of factors not specified in section 20.4(2), some of which would appear to be more appropriately applied to original unit determination or "confidential employee" issues. Factual distinctions also exist. For example, in Carroll the sergeants were empowered to suspend employees--authority which the Vinton sergeants do not possess.

without independent review or de novo consideration." See, e.g., Davenport Community School District, 75 PERB 72.⁹

The City emphasizes the sergeants' function of regularly evaluating the performance of patrol and reserve officers. However, conducting evaluations is not itself a statutory supervisory criterion, and is dispositive of supervisory status only to the extent the evaluation might constitute the effective recommendation of some specified section 20.4(2) action. See, e.g., City of Cedar Rapids, 76 PERB 267. While the Board, in its recent decision in City of West Des Moines, 95 PERB 5158, found that the independent preparation of evaluations by fire department lieutenants amounted to the effective recommendation of rewards (pay increases), the record in this case does not show what effect, if any, a performance evaluation has on an employee's employment, much less that the results of a sergeant's evaluation automatically results, without independent review by higher authority, in the taking of any section 20.4(2) action by the employer. Consequently, I cannot conclude that the sergeants' responsibility to evaluate the performance of patrol and reserve officers constitutes the effective recommendation of any section 20.4(2) action.

Nor can I conclude on this record that the sergeants' power to discipline or to recommend the discipline of other employees rises to the level of supervisory authority. While it is clear that the

⁹The Iowa Supreme Court has deemed this definition to be an appropriate interpretation of the concept of effective recommendation. City of Davenport, supra, 264 N.W.2d at 321.

sergeants possess and have in fact exercised the authority to "chew out" other officers, for an employee to be a supervisor based on the authority to discipline he or she must have more than the power to verbally reprimand. City of Cedar Rapids, 76 PERB 267; City of Davenport, supra, 264 N.W.2d at 321.

While the sergeants possess the authority to issue written reprimands, subject to the chief's review and modification, neither has done so. Severtsgaard was even unaware of his authority to write officers up. The record in this regard falls short of the requirement that tangible examples of the exercise of supervisory authority be shown.

Nor does it appear that the sergeants effectively recommend discipline. Only two examples of the imposition of discipline are of record. In one, the chief simply discussed with one of the sergeants the chief's intention to discipline a reserve officer. No recommendation by the sergeant was even made. In the other instance, precipitated by a sergeant's observation and reporting of what he believed to be inappropriate conduct, the sergeant was directed by the chief to investigate the conduct and make a report and recommendation for action. The fact that the sergeant's recommendation of termination was followed does not warrant the conclusion that it amounted to an "effective recommendation" of discipline, for it is clear that following the sergeant's report the chief independently reviewed the matter, conducted his own interviews, and only some days thereafter terminated the officer. This is not the action by higher authority based solely upon a

recommendation, without independent review or de novo consideration, contemplated by the concept of "effective recommendation."

The City maintains that the sergeants' involvement in the contractual grievance procedure provides a basis for their exclusion from the unit--apparently referring to an alleged responsibility to adjust the grievances of other public employees.

Article 26 of the parties' collective bargaining agreement provides a five-step mechanism for resolving disputes between the City and bargaining unit employees "regarding the violation, application or interpretation of the expressed provision (sic) of this Agreement." Step one is the employee's oral discussion of the complaint with his or her "immediate supervisor." If step one fails to resolve the matter informally, the employee or union may present the grievance in writing (step two) to the "immediate supervisor," who is to issue a written answer. Should that fail to resolve the matter, the grievance is presented in writing to the chief (step three) for further discussion and reply.

Even assuming the sergeants are the "immediate supervisors" referred to in the collective agreement's grievance provisions, there is no evidence that a grievance as contemplated by those provisions has ever been filed, much less that a sergeant has ever "adjusted" one by inquiring into its validity, determining its merits and taking corrective action if appropriate. See City of Davenport, supra, 264 N.W.2d at 323. Nor has it been established that the sergeants, even if believing that corrective action

concerning the City's interpretation or application of the collective agreement is warranted, possess the authority to take such action.

While testimony was introduced concerning a "conflict of interest" which the City perceived when Severtsgaard presented a grievance to the chief on behalf of the reserve officer the chief had terminated, I do not view the incident as necessarily supporting the existence of supervisory status in the sergeants. The parties have stipulated that the reserve officers are not and never have been in the bargaining unit. As such, they are not covered by the terms of the collective agreement, including the agreement's grievance procedure. Even if the sergeants have the authority to truly "adjust the grievances" of non-unit employees (an assumption probably not warranted in view of Severtsgaard's presentation of the reservist's grievance to the chief, rather than his own taking of action), such would not necessarily indicate supervisory status in view of the reservist's non-unit status. See, e.g., State of Iowa & SPOC, 93 PERB 4600, affirmed sub nom. State v. PERB, Polk Co. No. AA2304 (1995).

Supervisory authority must exist in reality, not only on paper. City of Davenport, supra, 264 N.W.2d at 314. I conclude that the sergeants are not supervisory employees based upon their purported involvement in the contractual grievance procedure.

While the sergeants are involved to some extent in the assigning of other employees, their role does not rise to the level of supervisory authority. Sergeant Campbell's scheduling of

employee work shifts and the amendment of that schedule to accommodate vacations is essentially a clerical task, requiring no independent judgment.

The record indicates that the chief handles arrangements for additional strength in those situations where the need is anticipated in advance. The chief, rather than a sergeant, reschedules the officers should shifts opened by a scheduled officer's vacation remain vacant, leaving the department below its minimum manning standard. While the record suggests, without the recitation of specific incidents, that the sergeant then on duty has the authority to call in additional help when an unusually-high number of incidents or calls (too many to be handled by on-duty personnel) require immediate attention, the exercise of such authority by a sergeant would seem to require little more than the application of common sense, rather than true independent judgment.

The question becomes whether the sergeants are supervisory authorities based upon their authority to direct other employees. To be sure, as the City points out, the department's standing order concerning the method of contacting supervisors contemplates the sergeants as the first line of supervision and as a source from which the officers and reservists may seek direction when required. Similarly, the sergeants' job description is liberally peppered with references to the sergeants' duty to "supervise" subordinate officers in the performance of their duties and to "supervise" various departmental functions. If words on paper were the

determining criteria, surely these sergeants would be classified as supervisors.

The totality of the record, however, leads me to the conclusion that the sergeants' role in the department's operation, and in the direction of its employees, is that of leadworkers rather than true supervisors. The existence of established procedures, policies and standing orders, coupled with the small complement of officers on duty at any given time, has resulted in a situation where the shift officers work virtually independently, even during the relatively few hours where shifts overlap. The officers know their jobs and how to perform them. They do not require frequent direction.

In the apparently-rare situation where real direction is required, the chief, by virtue of a general order, has assured that he will be involved if the matter involves "major crimes and incidents" within the department's jurisdiction. While a system does exist whereby a patrol or reserve officer can contact a sergeant in minor situations not covered by this general order,¹⁰ it appears that such contacts do not so much result in the sergeants' issuance of actual directions, but instead in an exchange where possible courses of action are explored and the sergeant's presumably-greater base of experience is shared. The record in this regard is remarkable for the absence of tangible

¹⁰See City ex. 2. Interestingly, although the subject of that general order is the identity of the appropriate "supervisor" to contact in minor situations when an officer has "determined that a supervisor needs to be contacted," nowhere does it provide a benchmark for an officer's use in making such a determination.

examples where the sergeants have actually directed a patrol or reserve officer to follow any particular course of action.¹¹

Clearly the sergeants, while a vast majority of the time performing work identical to that of the patrol and reserve officers, do have additional responsibilities not shared by the lower ranks. In performing those responsibilities, they may well tell an officer to do something, such as to fill out a report more completely. Such direction, however, is routine or clerical in nature, and requires no use of independent judgment on the part of the sergeant.

The overall impression created by the record is that the sergeants are the most experienced and senior shift officers, that they are recognized as such by the department's employees, and that although they are consulted for advice, counsel and guidance by the lower ranks concerning minor matters not necessarily requiring the chief's involvement, their regular functions and responsibilities more closely identify them with the bargaining unit than with management. These employees operate as "leadworkers" or "straw bosses," exercising common sense or greater skill in guiding less-skilled or experienced employees, while at the same time performing the same tasks as those lower-ranking employees.

¹¹Nor does the sharing of ideas and experiences appear to be a one-way street, for the sergeants themselves on occasion seek out other officers for brainstorming on matters confronting them when they believe that the benefit of the other officer's experience may be of value to them.

I conclude that the sergeants do not constitute true supervisory employees within the meaning of section 20.4(2), and consequently propose the entry of the following:

ORDER

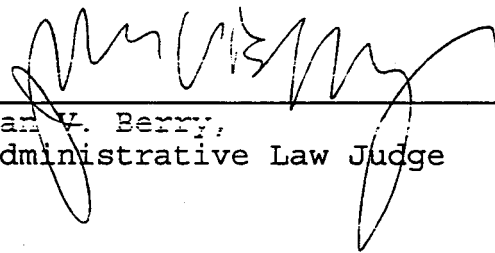
The petition for amendment of bargaining unit filed by the City of Vinton (Case No. 5377) is DISMISSED.

The petition for clarification of bargaining unit filed by Chauffeurs, Teamster & Helpers, Local Union No. 238 (Case No. 5361) is GRANTED, and the existing bargaining unit description is clarified to read as follows:

INCLUDED: All regular full-time and part-time Police Officers, including Sergeants.

EXCLUDED: Police Chief and Reserve Peace Officers as defined by Iowa Code chapter 80D.

DATED at Des Moines, Iowa this 29th day of February, 1996.



Jan V. Berry,
Administrative Law Judge